

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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| <p>WOLF CARBON SOLUTIONS US, LLC,</p> <p><i>Petitioner,</i></p> <p>v.</p> <p>IOWA UTILITIES BOARD, A DIVISION OF THE DEPARTMENT OF COMMERCE, STATE OF IOWA,</p> <p><i>Respondent.</i></p> | <p>CASE NO. EQCE088016</p> <p>PETITIONER'S MOTION TO STRIKE CERTAIN PORTIONS OF PUTATIVE INTERVENOR SIERRA CLUB OF IOWA'S INTERVENTION FILINGS</p> <p><i>(EXPEDITED CONSIDERATION REQUESTED)</i></p> <p><i>(ORAL ARGUMENT REQUESTED)</i></p> |
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COMES NOW, Petitioner Wolf Carbon Solutions US, LLC ("WCS") with this Motion to Strike certain portions of an affidavit filed in support of Sierra Club of Iowa's ("Sierra") Motion to Intervene in the above-captioned action, stating the following:

1. IOWA R. CIV. P. 1.434 authorizes a district court to strike "improper or unnecessary" matters in a pleading. *See also Krausnick v. Haegg Roofing Co.*, 20 N.W.2d 432, 434 (Iowa 1945); *Rixner v. James W. Boyd Revocable Trust*, Case No. 18-0811, 2019 WL 5067143, at *2 (Iowa Ct. App. Oct. 9, 2019).

2. Granting of a motion to strike is proper where any conclusory information is offered yet unsupported by proper and pertinent facts. *See* IOWA R. CIV. P. 1.434, official comment (citing *Hutchinson v. Des Moines Housing Corp.*, 84 N.W.2d 10, 13 (Iowa 1957)). *Accord In re Primary Road No. Iowa 141*, 114 N.W.2d 290, 292 (Iowa 1962); *Tedrow v. Des Moines Housing Corp.*, 87 N.W.2d 463, 468 (Iowa 1958) (discussing allegations stricken for lack of factual support).

3. As explained in WCS' Resistance to Intervention accompanying this Motion to Strike, certain statements were made in the supporting Affidavit of Jessica Mazour on behalf of

Sierra signed under penalty of perjury that are provably false and improperly cast a negative light upon WCS in this action. Namely, that land agents of WCS have and are continuing to engage in "harassment, threats, and intimidation" against landowners along the proposed pipeline route in question. *See* Aff. of Jessica Mazour, at ¶ 3.

4. This statement is not true and its existence in the record of the above-captioned action is unduly prejudicial given its false and misleading nature.

5. WCS expressly incorporates by reference herein its explanation and arguments regarding the false and prejudicial nature of the above-referenced statements as more fully explained in WCS' Resistance to Sierra's Motion to Intervene. Reciting the same arguments herein would not promote judicial economy. *See, e.g., U.S. v. Clancy*, Case No. 96-3317, 1999 WL 165164, at *5 n.3 (7th Cir. Apr. 26, 1999) (allowing incorporation of arguments from one filing into another in order to promote judicial efficiency).

6. Other jurisdictions have found it to be proper to strike portions of filings if they are patently false or misleading. *See, e.g., Boutote v. Deerfield Realty Co.*, Case No. CV106015850S, 2012 WL 5860244, at *3 (Conn. Supr. Ct. Nov. 1, 2012) ("[O]ur Supreme Court has explicitly stated that the court can properly strike a false affidavit from the file..."). This Court should do the same.

WHEREAS, for the foregoing reasons stated herein and in the filings submitted herewith, Paragraph 3 of Affiant Jessica Mazour's affidavit should be stricken from the record, and any and all further relief (legal or equitable) should be awarded as is just in the premises.

Respectfully submitted,

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